

**BARAFF, KOERNER, OLENDER & HOCHBERG, P. C.**

ATTORNEYS AT LAW  
5835 WISCONSIN AVENUE, N. W., SUITE 300  
WASHINGTON, D. C. 20015-2003

(202) 686-3200

B. JAY BARAFF  
ROBERT L. OLENDER  
JAMES A. KOERNER  
PHILIP R. HOCHBERG  
MARK J. PALCHICK  
JAMES E. MEYERS  
SUSAN R. ATHARI\*

\*ADMITTED IN VA ONLY

OF COUNSEL

ROBERT BENNETT LUBIC

June 14, 1994

FAX: (202) 686-8282

RECEIVED

JUN 14 1994

Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

Re: CS Docket No. 94-42

Dear Mr. Caton:

Transmitted herewith, on behalf of Word of God Fellowship, Inc., licensee of Station KMPX, Decatur, Texas, are an original and four (4) copies of its Comments in the above-referenced proceeding.

Should questions arise with respect to this matter, kindly communicate with the undersigned.

Very truly yours,



Robert L. Olender  
Counsel for  
WORD OF GOD FELLOWSHIP, INC.

RLO:bpt  
Enclosures  
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RECEIVED

JUN 14 1994

Before the  
Federal Communications Commission  
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of )  
 )  
Amendment of Section 76.51 of the ) CS Docket No. 94-42  
Commission's Rules to Include )  
Decatur, Texas, in the Dallas-Fort )  
Worth, Texas, Television Market )

To: Deputy Chief, Cable Services Bureau

COMMENTS

Word of God Fellowship, Inc. ("WOGFI") license of Station KMPX, Decatur, Texas, through counsel, herein submits its comments in the above-referenced proceeding. In support thereof, attached is a statement prepared by Marcus Lamb, WOGFI's President, providing information responsive to the Commission's notice.

ACCORDINGLY, based upon the comments submitted herein, it is respectfully requested that the Commission amend Section 76.51 of its rules to change the designation of the Dallas-Fort Worth Television market to include the community of Decatur, Texas.

Respectfully submitted,

WORD OF GOD FELLOWSHIP, INC.

By:



Robert L. Olender  
Its Attorney

BARAFF, KOERNER, OLENDER,  
& HOCHBERG, P.C.  
5335 Wisconsin Avenue, N.W.  
Washington, D.C. 20015  
June 14, 1994  
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### COMMENTS

These comments are respectfully submitted by the Petitioner, Word of God Fellowship, Inc. (hereafter "WOGFI") in response to the Federal Communications Commission's (hereafter "FCC") Notice of Proposed Rule Making adopted May 5, 1994 in CS Docket No. 94-42 in which WOGFI seeks to add Decatur to the Dallas-Fort Worth market.

1. In paragraph 8, The FCC pointed out that WOGFI had "submitted no information concerning other television services in the ADI and signal coverage areas that would indicate if, and to what extent, area stations may be competitive." Attached is Exhibit A which shows the signal coverage areas of all sixteen TV Stations that are on the air in the Dallas-Fort Worth (hereafter "DFW") ADI. The very similar contours dramatically illustrate the competitiveness of the DFW Stations including KMPX-TV 29 that places a City Grade signal over Dallas and Fort Worth! In fact, the transmit antenna for KMPX is within the Dallas City limits.

2. Also in paragraph 8, the FCC says that, "WOGFI has provided no information on any stations' Grade B contour other than its own." This is also clearly shown in Exhibit A.

3. In paragraph 9, the FCC says that, "it has not been demonstrated, nor is it apparent, that a Decatur station would place such a signal over the DFW market without placing its antenna in Dallas..." Attached is Exhibit B which shows that a UHF Station licensed to Decatur can use the standard FCC

50/50 curves, adhere to local FAA tower height restrictions and still place the required City Grade signal over Decatur and a Grade B signal over both Dallas and Fort Worth. This can be accomplished without placing the antenna in the City or County of Dallas. Exhibit B shows these contours with the antenna in Denton County.

4. Also in paragraph 9, the FCC says, that WOGFI has not shown, "that Decatur receives Grade B coverage from any area station, so as to suggest that in actuality, the communities are part of a single market." Exhibit A shows that thirteen of the sixteen area DFW stations place a Grade B signal over Decatur based on the FCC's 50/50 curves. Plus, KMPX places a City Grade signal over Decatur utilizing the NBS Tech Note 101 method for determining signal contours. (Going back to the FCC's comment in the last paragraph, logic says that if Dallas stations put a Grade B signal over Decatur, then Decatur stations could put a Grade B signal over Dallas.)

5. In paragraph 9, the FCC says, "nor has the petitioner provided any evidence of social, economic or cultural commonality between Decatur and the rest of the DFW market." There are two dominant logical reasons as to why there are social, economic and cultural ties between Decatur and DFW:

- a. Close proximity in location -
  - Decatur-Fort Worth: 28 miles (city limit - city limit)
  - Decatur-Dallas: 39 miles (city limit - city limit)
- b. Huge disparity in population -
  - Decatur - 4,200

- Fort Worth - 500,000
- Dallas - 1,100,000

6. Because Decatur is so small and yet so close to the huge cities of Dallas and Fort Worth, it results in a natural and necessary dependence of the people of Decatur on Dallas and Fort Worth. (There are no other large cities close to Decatur in any direction.)

7. To support this theory, WOGFI conducted an interview on June 6, 1994 with Ms. Kathy Renshaw, the City Secretary for Decatur. The following information was confirmed:

- a. Many of the people of Decatur commute to Dallas or Fort Worth for work. (there are very few jobs in Decatur.)
- b. People of Decatur do most of their major shopping in DFW. (There isn't even one mall in Decatur.)
- c. People of Decatur drive to DFW to eat at nice restaurants.
- d. People of Decatur go to the DFW Airport because they don't have a commercial airport in Decatur.
- e. Many of the high school graduates of Decatur commute to college in DFW because Decatur has no college.
- f. People of Decatur drive to DFW to attend professional sports events such as: football, baseball, basketball, and hockey as well as recreational places like Six Flags over Texas and the State Fair.
- g. On the flip side, people from DFW go to Decatur to hunt, fish, keep horses, and farm.
- h. There are several main highways that connect DFW to Decatur.
- i. Decatur can pick up the Grade B signals from two other markets: Wichita Falls and Sherman - Dennison, yet only DFW stations have significantly

viewed status in Decatur because of the obvious commonality between the communities.

- j. Businesses in Decatur advertise on DFW stations.

All of the above evidence is why Decatur is part of the Metropolitan Statistical Area (MSA) according to the U.S. Census Bureau.

8. In paragraph 9, the FCC asks, "how other media view the market." The following will answer that question:

- a. According to Nielsen, the media ratings service, Decatur is part of the Metro Survey Area of DFW.
- b. Most of the DFW stations have significantly viewed status in Decatur.
- c. Businesses in Decatur advertise with the DFW media.
- d. The DFW newspapers are the leading sellers in Decatur.
- d. KDZR-FM 99.1 has its antenna in Decatur but considers itself a DFW station and has its studio - Offices in Dallas.

Thus, it is apparent that the media considers Decatur to be part of the DFW media market.

9. In paragraph 10, the FCC says that WOGFI, "has failed to provide any specific examples of KMPX being denied carriage or the petitioner being asked to indemnify any cable system because the station might be a distant signal." Attached is Exhibit C which contains copies of a selected number of letters from several cable systems that provide specific examples of denied carriage or indemnification demands.

10. Also in paragraph 10, the FCC says that WOGFI has not "demonstrated that, without the requested relief, KMPX's viability would be threatened." According to the Television & Cable Factbook, the cable systems within 35 miles of Decatur have about 150,000 subscribers. KMPX is considered a "local signal" to these systems so there is no copyright liability.

11. However, the cable systems that are more than 35 miles from Decatur that can pick up the signal of KMPX, have about 550,000 subscribers. But KMPX could be considered a "distant signal" to these systems which could create a very large copyright liability.

12. So, there are two huge issues of viability here for KMPX:

- a. With more than 700,000 cable subscribers in the DFW market, KMPX can not survive if it only stays on the 150,000 "local signal" cable homes. (Cable systems don't have to carry a "distant signal" unless the station will indemnify the cable system and pay them their copyright liabilities.) WOGFI can't afford to pay the copyright fees and pay DFW syndicated program prices too.
- b. The cost of the copyright liability of KMPX for the 550,000 "distant signal" cable homes would be prohibitive! The following figures are from the Copyright Office:

550,000	"distant" cable subscribers
<u>x\$20</u>	average monthly cable bill
\$11,000,000	
<u>x 3.75%</u>	copyright fee
\$ 412,500	per month
<u>x 12</u>	months
<u>\$ 4,950,000</u>	per year

13. In paragraph 10, the FCC cites KMOX as, "presenting 'religious family' programming... that might qualify KMPX as

a 'specialty station' for copyright purposes... such that any potential liability might be alleviated." However, we respectfully point out that "specialty station" status does not alleviate distant signal copyright liability. It only lessens it.

14. According to the Copyright Office, the following figures would apply for specialty station distant signal fees:

550,000	"distant" cable subscribers
<u>x \$20</u>	average monthly cable bill
\$11,000,000	
<u>x .893%</u>	copyright fee ("specialty station")
\$ 98,230	per month
<u>x 12</u>	months
<u>\$ 1,178.760</u>	per year

15. KMPX has applied for "specialty station" status. But even this specialty rate would be prohibitive for KMPX. The amount above is almost as much as our entire 1994 station budget!

16. In paragraph 10, the FCC says that, "KMPX might qualify as a 'significantly viewed signal' for copyright purposes." According to Nielsen, KMPX has not reached the 2 rating, 5 share average to qualify as a "significantly viewed signal" for copyright purposes. Historically, it has been difficult for a new station to obtain that status, much less in a market like DFW with sixteen television stations. That many stations really fragments the viewing audience. In fact, at least seven of the DFW stations don't have "significantly viewed" status, but they also don't have the liability of being a "distant signal" for copyright purposes either...



17. In paragraph 10, the FCC says that, "it may be helpful to receive additional comment on... the general nature of any competition between KMPX and other stations in the subject market for viewers, programming and advertising revenues."

- a. The fact that KMPX showed up in the Nielsen February ratings book for DFW shows that KMPX is competing for viewers.
- b. There are five programmers that left four DFW stations to be on KMPX exclusively. The combined annual gross revenues to KMPX from these programmers is \$282,360.00.
- c. There has been revenue that KMPX has lost to DFW stations because of our lack of syndicated programming and our cable situation. That's because, right now, the DFW stations have that advantage over KMPX.
- d. Businesses in Decatur advertise on DFW stations.
- e. KMPX has businesses from DFW that advertise on it.

18. Finally, there is the potential of another compelling reason for the requested relief. Any day now, the Supreme Court could overturn the "Must Carry" rules. As it stands now, cable systems must carry "distant signals" in their ADI if the stations agree to indemnify the cable systems for copyright liabilities. But, the ultimate copyright liability belongs to the cable system. Therefore, if Must Carry is lost, cable systems may not be willing to carry distant signals even if the stations are willing to sign an indemnification agreement. That's because the cable systems may fear that they might have problems collecting the copyright fees from the stations. So, rather than risk the

hassle, they may decide to just not carry the distant signal stations!

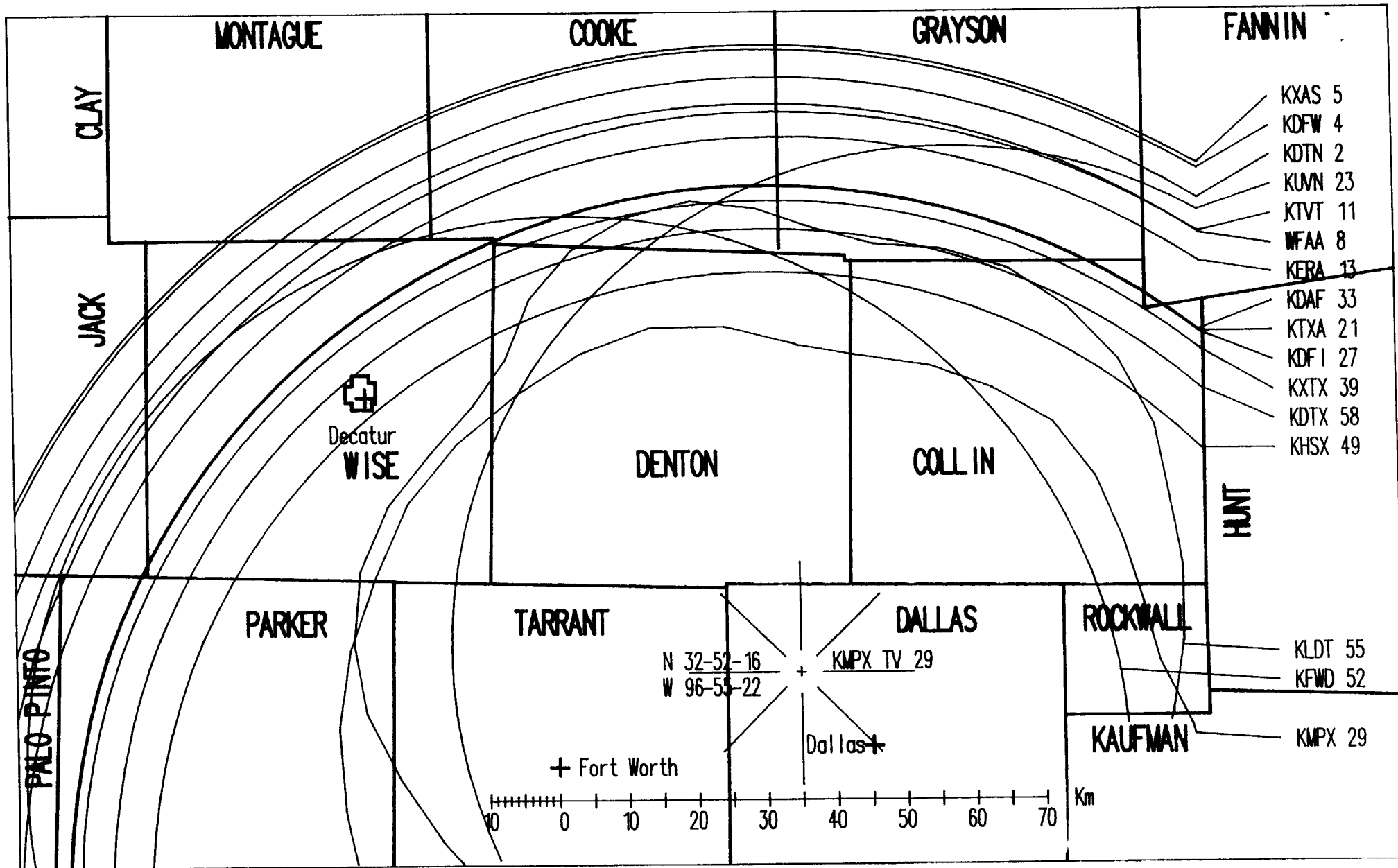
THEREFORE, because of the reasons stated in our original petition and for the additional reasons stated in these comments, WOGFI respectfully requests the FCC to grant our petition for rulemaking and add Decatur to the Dallas - Fort Worth television market.

Respectfully submitted,

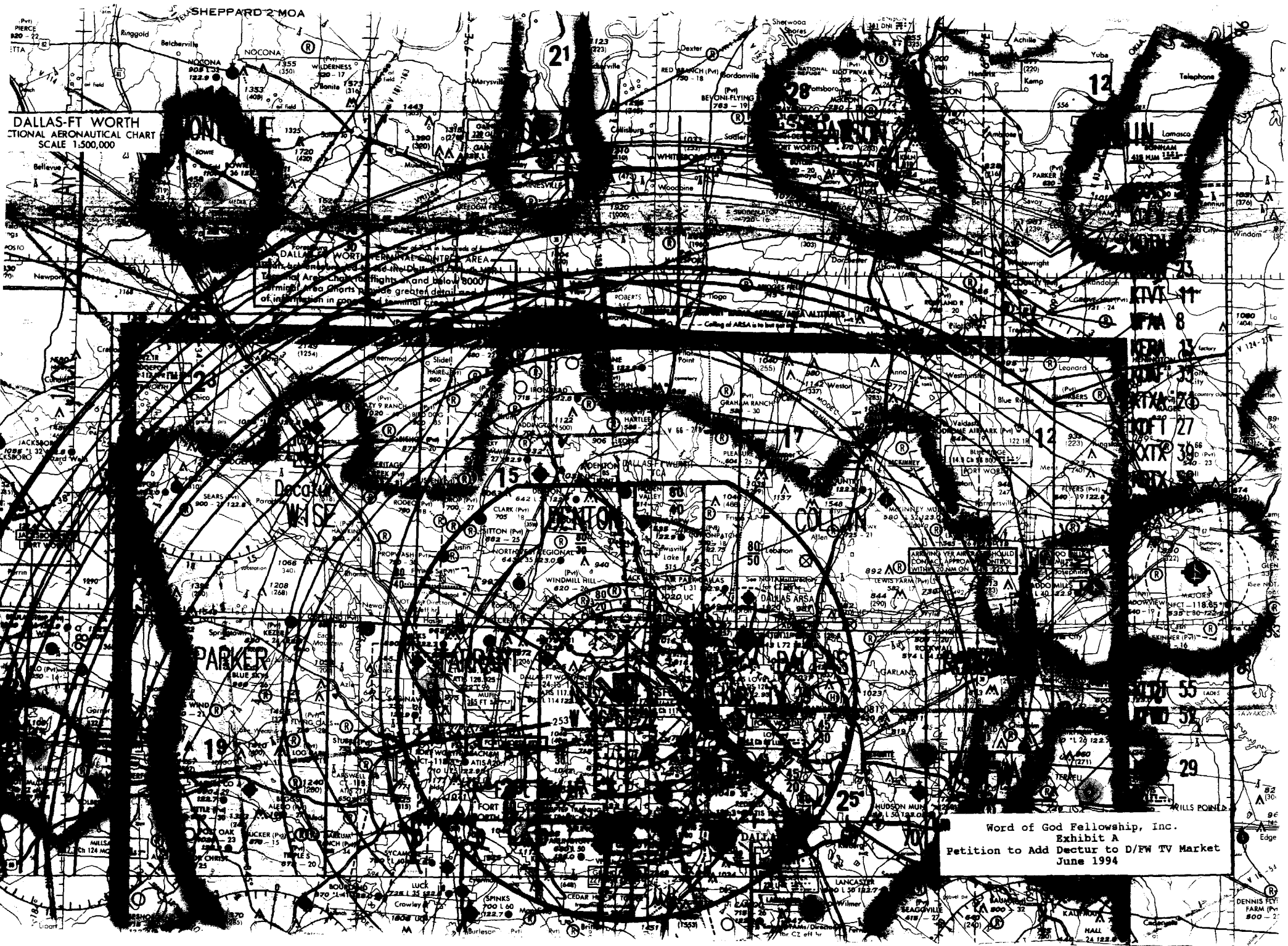
WORD OF GOD FELLOWSHIP, INC.

  
\_\_\_\_\_  
Marcus Lamb, President

**EXHIBIT A**



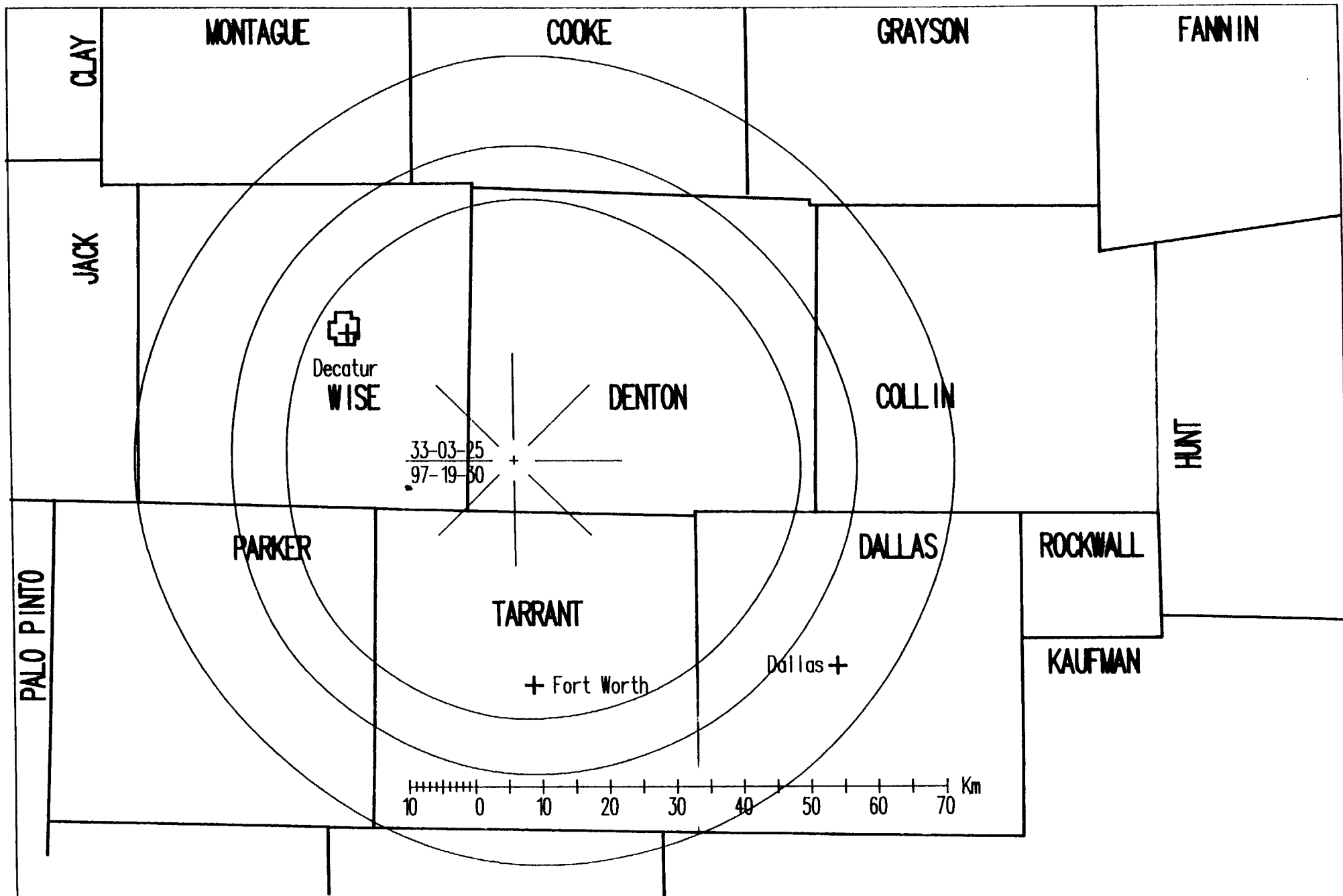
Word of God Fellowship, Inc.  
 Exhibit A  
 Petition to Add Decatur to D/FW TV Market  
 June 1994



DALLAS-FT WORTH  
ATIONAL AERONAUTICAL CHART  
SCALE 1:500,000

Word of God Fellowship, Inc.  
Exhibit A  
Petition to Add Dector to D/FW TV Market  
June 1994

**EXHIBIT B**



Word of God Fellowship, Inc.  
Exhibit B  
Petition to Add Decatur to D/FW TV Market  
June 1994

DALLAS-FT WORTH SECTIONAL AERONAUTICAL CHART  
SCALE 1:500,000

DALLAS-FT WORTH TERMINAL CONTROL AREA  
This chart covers the Dallas-Fort Worth Terminal Control Area (TCA) and the surrounding airspace. It includes all airports, navigational aids, and communication facilities within the TCA. The chart is intended for use by pilots operating within the TCA and is not to be used for en route navigation.

Word of God Fellowship, Inc.  
Exhibit B  
Petition to Add Dectur to D/FW TV Market  
June 1994

Word of God Fellowship, Inc.  
Exhibit B  
Petition to Add Dectur to D/FW TV Market  
June 1994



EXHIBIT C



TCI Cablevision of Texas, Inc.

October 22, 1993

Marcus D. Lamb  
KMPX-TV  
P.O. Box 612066  
Dallas, TX 75261-2066

Dear Mr. Lamb:

Copies of our signal level measurements for the cable systems within your A.D.I., over which I have responsibility (Clifton, DeLeon, Gainesville, Whitesboro and Mineral Wells), are enclosed. Please work with Mr. Lane Voelcker, my Area Engineer, if you wish to try to find some manner to eliminate those problems. Mr. Voelcker can be reached at this office (817)325-9585.

As far as the copyright issue, you will need to indemnify us for any Copyright increases associated with carriage of KMPX during the must carry election period (1993-1996).

We will ask you to sign an indemnification agreement, in the form attached, provide a performance bond, letter of credit or other appropriate financial instrument before KMPX is added to the above systems.

Give me a call at your convenience and we can discuss any particulars related to the above matters.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Raymond Greenwood", with a stylized flourish at the end.

Raymond Greenwood  
Area Manager

RG:tt

# **POST-NEWSWEEK**

## **CABLE**

VIA CERTIFIED MAIL,  
Return Receipt Requested (602) 468-1177 FAX (602) 468-9216  
4742 North 24th Street, Suite 270  
Phoenix, Arizona 85016  
April 26, 1993

Mr. Marcus Lamb, President  
KMPX-TV  
P. O. Box 612066  
Dallas, TX 75261-2066

Dear Mr. Lamb:

I am in receipt of your April 15, 1993 letter to our cable systems in Bonham and Sherman/Denison, Texas. I also appreciate the desire for a friendly and cooperative dialogue.

We look forward to the commencement of your service. However, we will be unable to carry your service until we confirm the following:

1. The quality of your signal at our principal headends.
2. The copyright impact on the systems.

Your willingness to pay for copyright is acknowledged but Sherman/Denison recently became a small television market when the license of KXII was transferred from Ardmore, OK, to Sherman, TX. If you do not provide us with a Grade B signal, you could generate significant copyright fees -- 3.75% of our revenues which could amount to more than \$120,000.00 per year. If this should occur, we would not hold you to the commitment in your letter.

The FCC rules provide for the additions of new stations and we will comply with them.

Please advise me when you start service and provide me a copy of your predicted Grade B contour.

Sincerely,



Harvey T. Boyd  
Vice President

/am

cc: Claude Edwards

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PARAGON  
C A B L E

BUZ NESBIT  
VICE PRESIDENT OF OPERATIONS

October 6, 1993

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED  
P 248 940 252

Marcus D. Lamb  
President  
KMPX-TV 29  
Post Office Box 612066  
Dallas, Texas 75261-2066

Dear Mr. Lamb:

This letter is being sent to you pursuant to the provisions of Section 76.58 (d) (2) of the Rules of the Federal Communications Commission and constitutes notice that our cable system's carriage of the signal of Station KMPX-TV may cause an increased copyright liability for Paragon Communications.

According to our calculations, the increase in copyright cost for adding KMPX-TV would be approximately \$8,100.00 per year.

KMPX-TV is not significantly viewed or within the grade B contour, making it a distant signal to PALESTINE.

We are prepared to discuss our findings with you at a mutually-convenient time. Please contact the undersigned with any questions concerning this notice or the tests.

Sincerely,

Buz Nesbit  
Vice President of Operations

lcc

Don  
Burkhardt

# North Texas Cablevision, L.P.

777 Plaza Dr, Granbury, TX 76048 817-573-6872 Fax 817-573-7689

November 22, 1993

Mr. Marcus D. Lamb  
Station Manager  
KMPX-TV  
P.O. Box 612066  
Dallas, TX 75261-2066

Dear Mr. Lamb:


We have calculated our estimate of the increased copyright fee caused by the addition of the KMPX signal to our cable headend shown below.

Please review this information and confirm immediately that you will pay this increased copyright fee, otherwise we will be forced to remove your signal at once.

<u>Headend</u>	<u>Semi-Annual Copyright Fee</u>	<u>County Causing Fee</u>
Comanche Peak	\$3.75 Fee - \$30,000 Distant \$4,500	Hood City Glen Rose Sommerville

Please respond by December 1, 1993 or we will assume you are unwilling to make these payments and remove your signal from our system.

Sincerely,

  
A. Dean Wandry  
Vice President, Operations  
Fanch Communications



PARAGON  
C A B L E

BUZ NESBIT  
VICE PRESIDENT OF OPERATIONS

October 6, 1993

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED  
P 248 940 250

Marcus D. Lamb  
President  
KMPX-TV 29  
Post Office Box 612066  
Dallas, Texas 75261-2066

Dear Mr. Lamb:

This letter is being sent to you pursuant to the provisions of Section 76.58 (d) (2) of the Rules of the Federal Communications Commission and constitutes notice that our cable system's carriage of the signal of Station KMPX-TV may cause an increased copyright liability for Paragon Communications.

According to our calculations the increase in copyright cost for adding KMPX-TV would be approximately \$2,100.00 per year.

KMPX-TV is not significantly viewed or within the grade B contour making it a distant signal to COMMERCE.

We are prepared to discuss our findings with you at a mutually-convenient time. Please contact the undersigned with any questions concerning this notice or the tests.

Sincerely,

  
Buz Nesbit  
Vice President of Operations

lcc

# CableVision

MORE THAN JUST TELEVISION

May 28, 1993

Marcus Lamb, President  
KMPX-TV 29  
P.O. Box 612066  
Dallas, Texas 75261

*Bill Hughes  
Mktg. Mgr.*

Dear Mr. Lamb:

I am in receipt of your letter dated April 15, 1993 requesting the carriage of your station on our Greenville cable system.

In accordance with the rules, we can request that your station pay for any copyright liability that results from adding your station to our line-up. Unfortunately, we do not know what our exact new rates will be on June 21, but are working feverishly on those calculations. As you know, our copyright rate is based on our service rates plus other formulas. Our Greenville system has approximately 7,300 customers and we are estimating that the copyright fee at this point will be in the \$35,000.00 range annually.

If your station elects carriage and is willing to indemnify our copyright fee, we will need the following:

1. A letter of indemnification concerning the copyright payments
2. A check representing the payment for copyright in advance.

At this point, we would then order the necessary equipment to place your station on our line-up.

Please communicate back with me about your decision. Once we have a detailed rate and fee schedule, which should be late June, we can provide you with more accurate numbers.

Please feel free to call me if you have any questions.

Very truly yours,

  
Johnny Mankin  
Vice President and Regional Manager



April 21, 1993

BY CERTIFIED MAIL

KMPX  
 Marcus D. Lamb, President  
 P. O. Box 612066  
 Dallas, TX 75261-2066

Dear Sirs:

Re: Must Carry

I am writing on behalf of TCA Cable TV and the cable systems serving the following areas within the Dallas-Fort Worth ADI:

	32 12 51	95 52 05	
Athens, Texas	32 41 24	95 42 40	125' = 300
Grand Saline, Texas		69	300' = 300
Honey Grove, Texas		76	166' 170
Paris, Texas		74	100' - 540
Sulphur Springs, Texas		82-5	320' 320

33 40 19 95 34 52  
 33 06 40 95 36 15

The FCC's new must carry rules require us to notify any commercial station in the same ADI as our system whether there is any signal quality or copyright liability issue affecting the station's potential must carry rights. It is our belief that copyright liability may adversely affect the must carry rights of KMPX on these systems.

Very truly yours,

*Martha S. Hensley*

Martha S. Hensley  
 Vice President - Administration

MSH/kh

*Raymond Mills*